

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DIANNE MORRIS,

Plaintiff,

vs.

SAINT LOUIS UNIVERSITY, et al.,

Defendants

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Case No.: 4:16CV1752 HEA

**MOTION FOR LEAVE TO AMEND PLAINTIFF'S FIRST AMENDED
COMPLAINT DISMISSING COUNT III OF PLAINTIFF'S FIRST AMENDED
COMPLAINT AND MOTION FOR REMAND**

COMES NOW, Plaintiff, Dianne Morris, by and through counsel, and pursuant to Rule 41(a)(2), respectfully requests this Court to allow Plaintiff to voluntarily dismiss Count III of her First Amended Complaint/Petition and for an Order of this Court remanding this case to the Circuit Court of St. Louis, Missouri, for further proceedings. In support of her Motion for Leave to amend Plaintiff's First Amended Complaint/Petition Dismissing Count III of Plaintiff's First Amended Complaint/Petition and Motion for Remand, Plaintiff states:

1. On or about July 30, 2012, Plaintiff filed a Petition in St. Louis Circuit Court alleging disability and race discrimination in violation of the Missouri human Rights Act, Chapter 213 *et seq.*, as amended.
2. On or about February 25, 2016, Plaintiff's Motion for Substitution of counsel was granted with the undersigned counsel taking over the case.
3. That initial discovery review by new counsel revealed a potential violation of the Family and Medical Leave Act (FMLA), 29 C.F.R. Part 825 *et seq.*, as amended.

4. On or about October 27, 2016, Plaintiff was granted leave to amend the initial Petition to include Count III alleging violation of the FMLA.
5. On or about November 10, 2016, Defendants' counsel removed this action to U.S. District Court on the basis of subject matter jurisdiction over Plaintiff's FMLA claims pursuant to 28 U.S.C. § 1331.
6. On or about November 14, 2016, Plaintiff's counsel received additional, outstanding discovery casting doubt on Plaintiff's ability to prosecute her FMLA Count III allegations.
7. That Plaintiff is requesting that this Court allow Plaintiff to dismiss Count III of Plaintiff's First Amended Petition and remand this matter back to the Circuit Court of St. Louis City, Missouri.
8. Trial in this matter was set for January 30, 2017.
9. A copy of Plaintiff's Second Amended Complaint is attached as Exhibit 1.

WHEREFORE, Plaintiff prays for this Court to allow Plaintiff to dismiss Count III of her Second Amended Complaint and remand this matter to the St. Louis City Circuit Court, Missouri, and for such other further relief as the Court deems just and equitable under the circumstances.

Respectfully submitted,

/s/ Vincent A. Banks III
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Counsel for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing has been sent electronically and via U.S. Mail, this 17th day of November, 2016 to LEWIS, RICE & FINGERSH, L.C., Neal F. Perryman, nperryman@lewisrice.com, Sarah Mullen, 600 Washington Avenue, Suite 2500, St. Louis, MO 63101, smullen@lewisrice.com, Attorneys for Defendants.

/s/ Vincent A. Banks III